

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

GLENN TAYLOR,

Plaintiff,

v.

Case No. 11-C-249

SGT. VAN LANEN, et al.,

Defendants.

ORDER

Plaintiff, a Wisconsin inmate, filed a motion for a temporary restraining order along with his complaint. He has not yet paid the initial partial filing fee. Plaintiff alleges that he is being punished for having Black Panthers literature and other reasons that could implicate his First Amendment rights.

I am satisfied that Plaintiff does not set forth the sort of claim that would warrant the extraordinary relief he seeks. If it later proves that Plaintiff's case is meritorious, he may obtain damages or other relief. However, because he is already in custody, his liberty is not at issue, at least in the kind of sense that would justify emergency relief through a temporary restraining order. Accordingly, the motion is **DENIED**.

Plaintiff seeks relief pursuant to 42 U.S.C. § 1983 and has requested leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. Pursuant to the Prison Litigation Reform Act ("PLRA") enacted April 26, 1996, the plaintiff is required to pay the statutory filing fee of \$350.00 in full for this action. 28 U.S.C. § 1915(b)(1). *In forma pauperis* status, if granted, allows the prisoner to pay the filing fee in increments. See 28 U.S.C. § 1915(b).

Under § 1915(b)(1), the court must assess an initial partial filing fee of twenty percent of the average monthly deposits to the plaintiff's account or the average monthly balance in the plaintiff's prison account for the six-month period immediately preceding the filing of the complaint, whichever is greater.

After the initial fee is paid, the prisoner must make monthly payments of twenty percent of the preceding month's income until the filing fee is paid in full. The agency having custody of the prisoner will collect the money and send payments to the court. 28 U.S.C. § 1915(b)(2).

The plaintiff filed a certified copy of his prisoner trust account statement for the six-month period immediately preceding the filing of the complaint, as required by 28 U.S.C. § 1915(a)(2). A review of this statement reveals that the average monthly deposit into the plaintiff's prison account was \$159.08 and the average monthly balance for the six-month period immediately preceding the filing of the instant complaint was \$117.88. Thus, in accordance with the provisions of 28 U.S.C. § 1915(b)(1)(B), the plaintiff is required to pay an initial partial filing fee of **\$31.82** (twenty percent of \$159.08).

The plaintiff shall pay the initial partial filing fee to the clerk of this court within twenty-one days of the date of this order. Failure to pay the initial partial filing fee within the time specified will result in dismissal of this matter, possibly with prejudice, pursuant to Fed. R. Civ. P. 41(b) and Civil L.R. 41.3 (E.D. Wis.). The motion for a temporary restraining order is **DENIED**.

SO ORDERED this 15th day of March, 2011.

s/ William C. Griesbach
William C. Griesbach
United States District Judge